

FIRST REGULAR SESSION

HOUSE BILL NO. 476

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAILEY.

1034H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof two new sections relating to educational scholarships.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 161.825, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 161.825 and 161.827, to read as follows:

161.825. 1. This section shall be known and may be cited as "Bryce's Law".

2. As used in this section, the following terms mean:

(1) "Autism spectrum disorder", pervasive developmental disorder; Asperger syndrome; childhood disintegrative disorder; Rett syndrome; and autism;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the commissioner of education;

(5) "Dyslexia therapy", an appropriate specialized dyslexia instructional program that is systematic, multisensory, and research-based offered in a small group setting to teach students the components of reading instruction including but not limited to phonemic awareness, graphophonemic knowledge, morphology, semantics, syntax, and pragmatics, instruction on linguistic proficiency and fluency with patterns of language so that words and sentences are carriers of meaning, and strategies that students use for decoding, encoding, word recognition, fluency and comprehension delivered by qualified personnel;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (6) "Educational scholarships", grants to students or children to cover all or part of the
17 tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service
18 provider, including transportation;

19 (7) "Eligible child", any child from birth to age five living in Missouri who has an
20 individualized family services program under the first steps program, sections 160.900 to
21 ~~[160.933]~~ **160.925**, and whose parent or guardian has completed the complaint procedure under
22 the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory
23 response; or any child from birth to age five who has been evaluated for qualifying needs as
24 defined in this section by a person qualified to perform evaluations under the first steps program
25 and has been determined to have a qualifying need but who falls below the threshold for
26 eligibility by no less than twenty-five percent;

27 (8) "Eligible student", any elementary or secondary student who attended public school
28 in Missouri the preceding semester, or who will be attending school in Missouri for the first time,
29 who has an individualized education program based on a qualifying needs condition or who has
30 a medical or clinical diagnosis by a qualified health professional of a qualifying needs condition
31 which in the case of dyslexia, may be based on the C-TOPP assessment as an initial indicator of
32 dyslexia and confirmed by further medical or clinical diagnosis;

33 (9) "Parent", includes a guardian, custodian, or other person with authority to act on
34 behalf of the student or child;

35 (10) "Program", the program established in this section **and section 161.827**;

36 (11) "Qualified health professional", a person licensed under chapter 334 or 337 who
37 possesses credentials as described in rules promulgated jointly by the department of elementary
38 and secondary education and the department of mental health to make a diagnosis of a student's
39 qualifying needs for this program;

40 (12) "Qualified school", either an accredited public elementary or secondary school in
41 a district that is accredited without provision outside of the district in which a student resides or
42 an accredited nonpublic elementary or secondary school in Missouri that complies with all of the
43 requirements of the program and complies with all state laws that apply to nonpublic schools
44 regarding criminal background checks for employees and excludes from employment any person
45 not permitted by state law to work in a nonpublic school;

46 (13) "Qualified service provider", a person or agency authorized by the department to
47 provide services under the first steps program, sections 160.900 to ~~[160.933]~~ **160.925**, and in the
48 case of a provider offering dyslexia therapy, the term also includes a person with national
49 certification as an academic language therapist;

50 (14) "Qualifying needs", an autism spectrum disorder, Down Syndrome, Angelman
51 Syndrome, cerebral palsy, or dyslexia;

- 52 (15) "Scholarship granting organization", a charitable organization that:
- 53 (a) Is exempt from federal income tax;
- 54 (b) Complies with the requirements of this program;
- 55 (c) Provides ~~[education]~~ **educational** scholarships to students attending qualified schools
- 56 of their parents' choice or to children receiving services from qualified service providers; ~~[and]~~
- 57 (d) Does not accept contributions on behalf of any eligible student or eligible child from
- 58 any donor with any obligation to provide any support for the eligible student or eligible child;
- 59 **and**
- 60 (e) **Complies with the requirements of section 161.827 if it accepts any grant from**
- 61 **the department under section 161.827.**

62 3. The department of elementary and secondary education shall develop a master list of

63 resources available to the parents of children with an autism spectrum disorder or dyslexia and

64 shall maintain a web page for the information. The department shall also actively seek financial

65 resources in the form of grants and donations that may be devoted to scholarship funds or to

66 clinical trials for behavioral interventions that may be undertaken by qualified service providers.

67 The department may contract out or delegate these duties to a nonprofit organization. Priority

68 in referral for funding, **other than funding described in section 161.827**, shall be given to

69 children who have not yet entered elementary school.

70 4. The director shall determine, at least annually, which organizations in this state may

71 be classified as scholarship granting organizations. The director may require of an organization

72 seeking to be classified as a scholarship granting organization whatever information that is

73 reasonably necessary to make such a determination. The director shall classify an organization

74 as a scholarship granting organization if such organization meets the definition set forth in this

75 section.

76 5. The director shall establish a procedure by which a donor can determine if an

77 organization has been classified as a scholarship granting organization. Scholarship granting

78 organizations shall be permitted to decline a contribution from a donor.

79 6. Each scholarship granting organization shall provide information to the director

80 concerning the identity of each donor making a contribution to the scholarship granting

81 organization.

82 7. (1) The director shall annually make a determination on the number of students in

83 Missouri with an individualized education program based upon qualifying needs as defined in

84 this section. The director shall use ten percent of this number to determine the maximum

85 number of students to receive scholarships from a scholarship granting organization in that year

86 for students with qualifying needs who have at the time of application an individualized

87 education program, plus a number calculated by the director by applying the state's latest

88 available autism, cerebral palsy, Down Syndrome, Angelman Syndrome, and dyslexia incidence
89 rates to the state's population of children from age five to nineteen who are not enrolled in public
90 schools and taking ten percent of that number. The total of these two calculations shall
91 constitute the maximum number of scholarships available to students.

92 (2) The director shall also annually make a determination on the number of children in
93 Missouri whose parent or guardian has enrolled the child in first steps, received an individualized
94 family services program based on qualifying needs, and filed a complaint through the Individuals
95 with Disabilities Education Act, Part C, and received an unsatisfactory response. In addition to
96 this number, the director shall apply the latest available autism, cerebral palsy, Down Syndrome,
97 Angelman Syndrome, and dyslexia incidence rates to the latest available census information for
98 children from birth to age five and determine ten percent of that number for the maximum
99 number of scholarships for children.

100 (3) The director shall publicly announce the number of each category of scholarship
101 opportunities available each year. Once a scholarship granting organization has decided to
102 provide a student or child with a scholarship, it shall promptly notify the director. The director
103 shall keep a running tally of the number of scholarships granted in the order in which they were
104 reported. Once the tally reaches the annual limit of scholarships for eligible students or children,
105 the director shall notify all of the participating scholarship granting organizations that they shall
106 not issue any more scholarships and any more receipts for contributions. If the scholarship
107 granting organizations have not expended all of their available scholarship funds in that year at
108 the time when the limit is reached, the available scholarship funds may be carried over into the
109 next year. These unexpended funds shall not be counted as part of the requirement in
110 subdivision (3) of subsection 8 of this section for that year. Any receipt for a scholarship
111 contribution issued by a scholarship granting organization before the director has publicly
112 announced the student or child limit has been reached shall be valid. Beginning with school year
113 2016-17, the director may adjust the allocation of the proportion of scholarships using
114 information on unmet need and use patterns from the previous school years. The director shall
115 provide notice of the change to the state board of education for its approval.

116 8. Each scholarship granting organization participating in the program shall:

117 (1) Notify the department of its intent to provide educational scholarships to students
118 attending qualified schools or children receiving services from qualified service providers;

119 (2) Provide a department-approved receipt to donors for contributions made to the
120 organization;

121 (3) Ensure that at least ninety percent of its revenue from donations **and at least ninety**
122 **percent of its revenue from grants received under section 161.827** is spent on educational

123 scholarships, and that all revenue from interest or investments is spent on educational
124 scholarships;

125 (4) Ensure that the **educational** scholarships provided **through revenue from donations**
126 do not exceed an average of twenty thousand dollars per eligible child or fifty thousand dollars
127 per eligible student **and that any educational scholarship funded, in whole or in part,**
128 **through department grants under section 161.827 does not exceed ninety percent of the**
129 **special education state adequacy target, as defined in section 161.827;**

130 (5) Inform the parent or guardian of the student or child applying for a scholarship that
131 accepting the scholarship is tantamount to a parentally placed private school student pursuant to
132 34 CFR 300.130 and, thus, neither the department nor any Missouri public school is responsible
133 to provide the student with a free appropriate public education pursuant to the Individuals with
134 Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

135 (6) Distribute periodic scholarship payments as checks made out to a student's or child's
136 parent and mailed to the qualified school where the student is enrolled or qualified service
137 provider used by the child. The parent or guardian shall endorse the check before it can be
138 deposited;

139 (7) Cooperate with the department to conduct criminal background checks on all of its
140 employees and board members and exclude from employment or governance any individual who
141 might reasonably pose a risk to the appropriate use of contributed funds;

142 (8) Ensure that scholarships are portable during the school year and can be used at any
143 qualified school that accepts the eligible student or at a different qualified service provider for
144 an eligible child according to a parent's wishes. If a student moves to a new qualified school
145 during a school year or to a different qualified service provider for an eligible child, the
146 scholarship amount may be prorated;

147 (9) Demonstrate its financial accountability by:

148 (a) Submitting a financial information report for the organization that complies with
149 uniform financial accounting standards established by the department and conducted by a
150 certified public accountant; and

151 (b) Having the auditor certify that the report is free of material misstatements;

152 (10) Demonstrate its financial viability, if the organization is to receive donations **or**
153 **department grants under section 161.827** of fifty thousand dollars or more during the school
154 year, by filing with the department before the start of the school year:

155 (a) A surety bond payable to the state in an amount equal to the aggregate amount of
156 contributions **and grants** expected to be received during the school year; or

157 (b) Financial information that demonstrates the financial viability of the scholarship
158 granting organization.

159 9. Each scholarship granting organization shall ensure that each participating school or
160 service provider that accepts its scholarship students or children shall:

161 (1) Comply with all health and safety laws or codes that apply to nonpublic schools or
162 service providers;

163 (2) Hold a valid occupancy permit if required by its municipality;

164 (3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;

165 (4) Provide academic accountability to parents of the students or children in the program
166 by regularly reporting to the parent on the student's or child's progress;

167 (5) Certify that in providing any educational services or behavior strategies to a
168 scholarship recipient with a medical or clinical diagnosis of or an individualized education
169 program based upon autism spectrum disorder it will:

170 (a) Adhere to the best practices recommendations of the Missouri Autism Guidelines
171 Initiative or document why it is varying from the guidelines;

172 (b) Not use any evidence-based interventions that have been found ineffective by the
173 Centers for Medicare and Medicaid Services as described in the Missouri Autism Guidelines
174 Initiative guide to evidence-based interventions; and

175 (c) Provide documentation in the student's or child's record of the rationale for the use
176 of any intervention that is categorized as unestablished, insufficient evidence, or level 3 by the
177 Missouri Autism Guidelines Initiative guide to evidence-based interventions; and

178 (6) Certify that in providing any educational services or behavior strategies to a
179 scholarship recipient with a medical or clinical diagnosis of, or an individualized family services
180 program based upon Down Syndrome, Angelman Syndrome, cerebral palsy, or dyslexia, it will
181 use student, teacher, teaching, and school influences that rank in the zone of desired effects in
182 the meta-analysis of John Hattie, or equivalent analyses as determined by the department, or
183 document why it is using a method that has not been determined by analysis to rank in the zone
184 of desired effects.

185 10. Scholarship granting organizations shall not provide educational scholarships for
186 students to attend any school or children to receive services from any qualified service provider
187 with paid staff or board members who are relatives within the first degree of consanguinity or
188 affinity.

189 11. A scholarship granting organization shall publicly report to the department, by June
190 first of each year, the following information prepared by a certified public accountant regarding
191 its grants in the previous calendar year:

192 (1) The name and address of the scholarship granting organization;

193 (2) The total number and total dollar amount of contributions received during the
194 previous calendar year; [~~and~~]

195 (3) **The total dollar amount of any grants received from the department under**
196 **section 161.827 during the previous calendar year; and**

197 (4) The total number and total dollar amount of educational scholarships awarded during
198 the previous calendar year, including the category of each scholarship, and the total number and
199 total dollar amount of educational scholarships awarded during the previous year to students
200 eligible for free and reduced **price** lunch.

201 12. The department shall adopt rules and regulations consistent with this section as
202 necessary to implement the program.

203 13. The department shall provide a standardized format for a receipt to be issued by a
204 scholarship granting organization to a donor to indicate the value of a contribution received.

205 14. The department shall provide a standardized format for scholarship granting
206 organizations to report the information in this section.

207 15. The department may conduct either a financial review or audit of a scholarship
208 granting organization.

209 16. If the department believes that a scholarship granting organization has intentionally
210 and substantially failed to comply with the requirements of this section **or with the**
211 **requirements of section 161.827**, the department may hold a hearing before the director or the
212 director's designee to bar a scholarship granting organization from participating in the program.
213 The director or the director's designee shall issue a decision within thirty days. A scholarship
214 granting organization may appeal the director's decision to the administrative hearing
215 commission for a hearing in accordance with the provisions of chapter 621.

216 17. If the scholarship granting organization is barred from participating in the program,
217 the department shall notify affected scholarship students or children and their parents of this
218 decision within fifteen days.

219 18. Any rule or portion of a rule, as that term is defined in section 536.010, that is
220 created under the authority delegated in this section shall become effective only if it complies
221 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
222 This section and chapter 536 are nonseverable and if any of the powers vested with the general
223 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
224 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
225 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

226 19. The department shall conduct a study of the program with funds other than state
227 funds. The department may contract with one or more qualified researchers who have previous
228 experience evaluating similar programs. The department may accept grants to assist in funding
229 this study.

230 20. The study shall assess:

231 (1) The level of participating students' and children's satisfaction with the program in a
232 manner suitable to the student or child;

233 (2) The level of parental satisfaction with the program;

234 (3) The percentage of participating students who were bullied or harassed because of
235 their special needs status at their resident school district compared to the percentage so bullied
236 or harassed at their qualified school;

237 (4) The percentage of participating students who exhibited behavioral problems at their
238 resident school district compared to the percentage exhibiting behavioral problems at their
239 qualified school;

240 (5) The class size experienced by participating students at their resident school district
241 and at their qualified school; and

242 (6) The fiscal impact to the state and resident school districts of the program.

243 21. The study shall be completed using appropriate analytical and behavioral sciences
244 methodologies to ensure public confidence in the study.

245 22. The department shall provide the general assembly with a final copy of the
246 evaluation of the program by December 31, 2016.

247 23. The public and nonpublic participating schools and service providers from which
248 students transfer to participate in the program shall cooperate with the research effort by
249 providing student or child assessment instrument scores and any other data necessary to complete
250 this study.

251 24. The general assembly may require periodic updates on the status of the study from
252 the department. The individuals completing the study shall make their data and methodology
253 available for public review while complying with the requirements of the Family Educational
254 Rights and Privacy Act, as amended.

255 25. Under section 23.253 of the Missouri sunset act:

256 (1) The provisions of the new program authorized under this section shall sunset
257 automatically on December 31, ~~[2019]~~ **2031**, unless reauthorized by an act of the general
258 assembly; and

259 (2) If such program is reauthorized, the program authorized under this section shall
260 sunset automatically on December 31, ~~[2034]~~ **2043**; and

261 (3) This section shall terminate on December thirty-first of the calendar year immediately
262 following the calendar year in which the program authorized under this section is sunset.

**161.827. 1. The definitions of terms set forth in section 161.825 shall be applicable
2 to such terms as used in this section. Additionally, as used in this section, the following
3 terms mean:**

4 (1) "Scholarship", an educational scholarship awarded by a scholarship granting
5 organization that is funded, in whole or in part, by any grant received by the scholarship
6 granting organization from the department of elementary and secondary education under
7 this section;

8 (2) "Special education state adequacy target", the state adequacy target plus the
9 product of seventy-five hundredths multiplied by the state adequacy target;

10 (3) "State adequacy target", the same meaning given to the term in section 163.011.

11 2. There is hereby created in the state treasury the "Bryce's Law Scholarship
12 Fund", which shall consist of any moneys appropriated annually by the general assembly
13 from general revenue to such fund and any gifts, grants, or bequests to such fund from any
14 source, including the federal government. The state treasurer shall be custodian of the
15 fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve
16 disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in
17 the fund shall be used solely by the department of elementary and secondary education for
18 awarding grants to scholarship granting organizations and administering the grant
19 program as described in this section. Notwithstanding the provisions of section 33.080 to
20 the contrary, any moneys remaining in the fund at the end of the biennium shall not revert
21 to the credit of the general revenue fund. The state treasurer shall invest moneys in the
22 fund in the same manner as other funds are invested. Any interest and moneys earned on
23 such investments shall be credited to the fund.

24 3. Subject to appropriation, the amount of moneys to be deposited annually into
25 the Bryce's law scholarship fund by the general assembly shall be determined by
26 multiplying the estimated number of scholarships that will be awarded during the fiscal
27 year by the special education state adequacy target. The department of elementary and
28 secondary education shall provide the general assembly with the estimate required under
29 the calculation. In any fiscal year during which the appropriation to the fund is
30 insufficient to fully fund the calculation under this subsection, the department shall adjust
31 the state adequacy target definition for purposes of this section and section 161.825 in
32 order to accommodate the appropriation level for the given fiscal year.

33 4. The department of elementary and secondary education shall actively seek
34 financial resources in the form of grants and donations that may be deposited into the
35 Bryce's law scholarship fund.

36 5. The department of elementary and secondary education shall establish a grant
37 program to award grants from the Bryce's law scholarship fund to scholarship granting
38 organizations. The department shall administer and act as the fiscal agent for the grant
39 program and shall be responsible for receiving and reviewing grant applications and

40 awarding grants under this section. The department shall require, as a condition of
41 awarding a grant, that the scholarship granting organization:

42 (1) Award scholarships only to students who have previously attended a public
43 school in the state of Missouri;

44 (2) Require any student who has accepted a scholarship to cease attendance at any
45 public school in the district in which the student resides;

46 (3) Verify that no school district or charter school is counting a student who has
47 accepted a scholarship for purposes of state aid;

48 (4) Ensure that each scholarship covers all the student's allowed expenses under
49 section 161.825 up to ninety percent of the special education state adequacy target; and

50 (5) Ensure that grant moneys are not commingled with contributions or any other
51 moneys held by the scholarship granting organization.

52 6. The department of elementary and secondary education shall promulgate rules
53 to implement the provisions of this section. Any rule or portion of a rule, as that term is
54 defined in section 536.010, that is created under the authority delegated in this section shall
55 become effective only if it complies with and is subject to all of the provisions of chapter
56 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and
57 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
58 to delay the effective date, or to disapprove and annul a rule are subsequently held
59 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
60 after August 28, 2019, shall be invalid and void.

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